PESTICIDE USE ENFORCEMENT PROGRAM WORK PLAN
for
Pesticide Use Enforcement Activities
by
Department of Pesticide Regulation
and the
Solano County Agricultural Commissioner
for
Fiscal Year (FY) 2007/2008

COUNTY

Name: Janet Jessen

Title: Deputy Agricultural Commissioner/Sealer of Weights & Measures

DPR

Name: Jim McKee

Title: Senior Pesticide Use Specialist, Enforcement Branch Liaison

Dated: November 30, 2007

COUNTY

Name: Jearl D. Howard

Title: Agricultural Commissioner/Sealer of Weights & Measures

SOLANO COUNTY DEPARTMENT OF AGRICULTURE

CORE ENFORCEMENT PROGRAM

I. Restricted materials permitting
   a. Permit Evaluation
   b. Site Monitoring

II. Compliance monitoring
   a. Comprehensive Inspection Plan
   b. Investigation Response and Reporting Improvement

III. Enforcement response

COUNTY RESOURCES

- Deputy Agricultural Commissioner/Sealer 70% of time in Pesticide Use Enforcement (PUE)
- Senior Agricultural Biologist/Weights & Measures Inspector (1) 50% of time in PUE
- Senior Agricultural Biologist (1) 80% of time in PUE
- Agricultural Biologist/Weights & Measures Inspector (1) 70% of time in PUE
- Agricultural Biologist/Weights & Measures Inspector Trainee (1) 60% of time in PUE
- Senior Agricultural Biologist/Weights & Measures Inspector (3) 5% of time in PUE
- Agricultural Biologist/Weights & Measures Inspector (2) 5% of time in PUE
- Agricultural Biologist/Weights & Measures Inspector Trainee (2) 5% of time in PUE
- Office Assistant II (3) 50% of time in PUE
- Office Supervisor (1) 40% of time in PUE

Strengths:

- Nine full-time Biologists possess Pesticide Use Enforcement license
- Each permanent Biologist and support staff has exclusive use of their own computer workstation along with access to email and the Internet
- Each Biologist has exclusive use of a vehicle
- Staff organized into teams with more defined roles and responsibilities creating better defined lines of authority over staff (Each Biologist on PUE team reports directly to PUE Deputy)

Weaknesses:

- No Assistant Agricultural Commissioner

- Negligible Spanish language ability
- Two newly appointed Agricultural Biologist/Weights & Measures Inspector Trainees (without PUE license) currently assigned to Pest Exclusion/Detection team
- One newly vacated Office Assistant II position
- 20% decrease from previous year in number of hours available for Pesticide Use Enforcement activities due to vacancies, inexperienced staff and detection of quarantine pests (Medfly, LBAM)
- Satellite offices in Winters and Ryer Island not staffed due to staffing shortage/inexperienced staff

Goals:

- Fully staff all vacant positions
- Train support staff on all pesticide regulatory activities including data entry of use reports, notices of intent (NOIs), tickler files, etc.

Deliverables:

- Replace desktop computer workstations for all Biologists (4) and Deputy on the PUE team with tablet personal computer capable of operating AgGIS/RMPP (Restricted Materials Permit Program) and AIRS (Automated Inspection and Reporting System)
- Staff satellite offices during active time of year

Meeting goals:

- Front office is now staffed with an Office Supervisor and 3 Office Assistants (II). One OAII position was recently vacated, but will be filled shortly.
- All Biologists (4) and Deputy on the PUE team received tablet personal computers capable of operating AIRS.

I. RESTRICTED MATERIALS PERMITTING

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

a. Permit Evaluation:

- Approximately 300 Restricted Materials Permits and 175 Operator Identification Numbers issued annually
- Permits issued and updated by eleven licensed and trained staff (comprised of two Deputy Agricultural Commissioners and nine Agricultural Biologists)
- Department administers private applicator certification examination in group sessions at three locations in the county and by drop in at the main office

- Continuing education classes that focus on pesticide laws and regulations offered by Department staff
- Appointments required during beginning of year (busy) for permit issuance
- Permits updated on AgGIS/RMPP from changes submitted by operators prior to scheduled appointment
- Permits issued to, signed and dated by the operator of the property/certified applicator
- Maps required and submitted by Operator of the Property. Sensitive sites such as streams, ponds, riparian areas, residential tracts, shopping centers, schools, hospitals, recreational areas, buildings and farm labor camps identified on maps
- Permits site specific and valid up to one year and expire no later than December 31st of the current year
- Infrequently, permits valid only for completion of job
- AgGIS/RMPP updated for any crop or pesticide changes. Supplements signed and dated by operator of the property or property operator's authorized representative
- Permittees required to verify alternatives and mitigation measures considered and adopted, when feasible

Strengths:

- Check-off list used to ensure Restricted Materials Permit is correctly issued with all necessary supporting documentation
- No multiyear permits allows for annual contact with operator to inform them of any regulatory updates
- Encourage operators to remove any unused restricted materials from their permit
- All field sites are digitized in the AgGIS program
- Few restricted materials permit denials, usually due to lack of a certified applicator
- Permits for methyl bromide, endosulfan and Section 18 chemicals issued just prior to use, rather than on initial permit
- Permit denials documented

Weaknesses:

- Maps occasionally lack information such as site identification numbers, names of roads or disclosure of sensitive sites
- Numerous crop changes from year to year and even during the season
- Occasionally site identification numbers have been issued for fields that are not contiguous
- Mapping identity on AgGIS is sometimes inaccurate as glitches occur when growers share fields and the data linked to digitized sites is lost
- Permits not issued in a timely manner in 2007 due to delayed annual permit changeover (due to RMPP problems) or late submissions from growers

- Three new Biologists with less than one year of experience, two Biologists with less than two years of experience

Areas needing improvement:

- Mapping and site identification
- Timeliness of permit issuance

Plan for improvement:

- Review procedures for permit issuance with staff
- Revise permit check-off list used for permit issuance
- Begin permit issuance and updates earlier in the year

Measure success/failure:

- Deputy to review a portion of grower files, with focus on those issued by less experienced staff
- Deputy to review permit assignment log for timeliness of permit issuance

Meeting goals:

- Procedures for permit issuance and permit check-off list reviewed with staff
- Many unused restricted pesticides were removed from restricted materials permits (most notably Furadan)
- Updated Endangered species shape file installed in AgGIS
- Deputy reviewed permit assignment log to facilitate work flow
- Deputy reviewed most restricted materials permits for accuracy and inclusion of maps and site identification
- Growers are beginning to realize that they must submit their permit changes earlier

b. Site Monitoring:

- Notices of Intent (NOIs) called in during regular business hours logged into RMPP by support staff
- Notices of Intent left on Voice Mail recorded on log the following business day by assigned Biologist, them into RMPP by support staff
- Faxed Notices of Intent reviewed by assigned Biologist by the following day
- Biologist generates Notices of Intent from previous day and reviews them to ensure a valid restricted materials permit is issued for site and material and that application is appropriate for job and surrounding area
- Department's AgGIS program is utilized to assess surrounding sites
- The operator of the property, the authorized representative, or the applicator is contacted if there are any adverse conditions that would impact the application

- Notice of Intent denied and documented if the application does not meet all conditions
- Alternative methods or feasible mitigation measures proposed for above proposed applications
- Approximately 1,300 Notices of Intent submitted in 2006/2007 with 5.8% of the sites inspected
- Sites for pre-application monitoring selected based on method of application, chemical, and adjacent sensitive areas
- Higher priorities to monitor those Notices of Intent with restrictive permit conditions. Examples include those for aerial applications of paraquat near any sensitive sites or crops (since the buffer is two miles if wind is toward a sensitive area), phenoxy applications just prior to bud break in grapes (since the buffer is ½ mile with wind away if grapes are not dormant), endosulfan (since the buffer is 300 feet to water and because irrigation water must be held), metam sodium (due to monitoring requirements near sensitive sites) and microencapsulated Methyl Parathion (due to the high toxicity to honey bees and three mile check for active apiary locations).
- Deputy or experienced Biologist completes or reviews Methyl Bromide worksite plans
- Pre-application site inspections performed on all Methyl Bromide soil fumigations. Inspect as many as possible at the time of application. These fumigations tend to be small acreages for the production of strawberries.
- Non-ag permittees required to submit monthly NOI's.

Strengths:

- Comprehensive review of recommendations, labels, rate, and adjacent crops/area for pre-application site inspections, resulting in averting violations
- Experienced Senior Biologists consulted to identify any adverse conditions at or near the site
- Digitized majority of sites in 2007 permit year and reasonably complete
- Staff available to be on site for those applications that are highly sensitive (i.e., aerial applications that are near an ag/urban interface)

Weaknesses:

- High percentage of NOIs generated during peak permit season
- Urban development in agricultural areas increases complaints/issues

Areas needing improvement:

- Maintenance of tickler file to reconcile Notices of Intent with pesticide use reports
- Maintenance of tickler file to reconcile monthly summary pesticide use reports for pest control businesses

Plan for improvement:

- Train new support staff on data entry of use reports and NOIs
- Prioritize data entry so that use reports and NOIs are entered within a week
- Maintain tickler file

Measure success/failure:

- Fully staffed front office with data entry no more than 7 days in arrears

Goals:

- Continue comprehensive evaluation of Notices of Intent
- Select pre-application site inspections with regard to potential environmental impact

Deliverables:

- Complete any mapping gaps in AgGIS database
- Amend site designations for sites that are not contiguous
- Complete pre-application site inspections on at least 5% of notices of intent.

Meeting goals:

- Implemented new permit condition for the 2007 permit year that requires Notices of Intent be submitted prior to 3:00 pm on Friday for weekend applications of restricted materials
- Implemented new permit condition for 500' buffer for Thiodan for public safety
- Completed mapping gaps in AgGIS database
- Amended site designations for sites that are not contiguous
- Pesticide use report data entered within a week of receipt
- Notices of intent entered within a week of receipt
- Implemented tickler file to monitor monthly summary pesticide use reports for pest control businesses

II. COMPLIANCE MONITORING

The compliance monitoring program element was found to meet DPR standards and work plan goals.

a. Comprehensive Inspection Plan:

- Inspections performed by four licensed and trained staff (occasionally licensed and trained staff from another team may perform inspections)

- Inspections usually performed during regular business hours
- Biologists assigned a specific number of inspections dependent on other Pesticide Use Enforcement activities, experience, and workload in other programs
- Records inspections focused on operators with employee handlers, then field workers
- Annual records inspections for operators with employees and pesticide dealers
- Biannual records inspections for pest control businesses without employees and no non-compliances

Strengths:

- Triannual records inspections for growers with field workers or without employee handlers (coincides with hazardous materials inspection). Departmental opportunity to keep these growers updated on changes in regulation and ensures compliance in record keeping and storage.
- Weekly roundtable allows staff to focus on inspection problem areas. We are then able to more closely monitor those entities with non-compliance issues.
- Monitor almost all methyl bromide field fumigations (before regular work hours)
- Staff working in other programs notifies PUE Deputy when an application is occurring. PUE staff member notified to assign monitoring inspection
- Target Notices of Intent for sensitive applications or with employees handlers
- Deputy reviews all inspections
- Conducted equipment inspections on unlicensed maintenance gardeners
- Enforcement action taken on initial non-compliant inspections of unlicensed maintenance gardeners

Weaknesses:

- Many applications occur during permit issuance period, lack staff resources to conduct inspections at this time
- Other program responsibilities
- No weekend or after hours staffing
- Follow up inspections not always completed, sometimes due to lack of response from operator or lack of upcoming applications
- Monitoring inspections for commodity fumigations, aerations, non-ag permittees and Branch IIIs tend to be scheduled due to difficulty in randomly finding these monitoring activities
- Increased number of non-compliances results in more time spent on enforcement actions and less for inspections
- Numerous unlicensed maintenance gardeners
- High levels of non-compliance

Areas needing improvement:

- Increase number of monitoring inspections

- Follow up inspections not always completed within 30 days

Plan for improvement:

- Assign goals to PUE team members
- Track inspections using new AIRS software
- Increase inspections of maintenance gardeners

Measure success/failure:

- Increase number and timely completion of follow up inspections
- Increase number of licensed and registered maintenance gardeners operating in county
- Reduce percentage of non-compliance

Goals:

- Implement AIRS software Winter 2007
- Increase surveillance in areas where non-compliances are higher

Deliverables:

- 75 monitoring inspections on growers, government agencies, and pest control businesses (including agricultural, aerial, structural, maintenance gardeners and non-ag restricted materials inspections)
- 24 mix/load inspections
- 7 fumigation inspections including structural, field and commodity fumigations
- 70 Headquarter audits for growers, government agencies, and pest control businesses
- 20 business record audits

Meeting goals:

- Increased surveillance in areas where non-compliances are higher
- Followed up on more non-compliant inspections within 30 days when possible
- Completed inspection goals
- Increased number of inspections on unlicensed maintenance gardeners and pest control businesses resulted in increased number of enforcement actions including cases referred to District Attorney
- Mass mailing to landscapers/gardeners describing licensing and registration requirements
- Compliance inspections completed for the “unaware”

b. Investigation Response and Reporting Improvement:

- Investigations completed by three trained Biologists and Deputy
- Complaints usually sent directly to the Deputy, but may be processed by a Biologist on duty
- All complaints/investigations recorded on log with date of the incident, complainant name, pesticide name (if known), respondent name, type of episode, location of the incident, whether violations were found, and closing date of the investigation or complaint
- All investigations/illnesses reviewed by the Deputy

Strengths:

- Investigations are initiated in a timely manner
- Investigations are thorough and complete; none returned by DPR
- All PUE staff attend DPR training
- Appropriate enforcement actions taken when incidental violations discovered

Weaknesses:

- Investigation reports take too long to be completed
- Complaints tend to come in clusters
- Two biologists with little experience completing investigations/illnesses
- Lab analysis takes too long to process

Areas needing improvement:

- Decrease amount of time to complete investigations
- Increase surveillance in areas where the department lacks a regular presence

Plan for improvement:

- Assign straightforward investigations/illnesses to inexperienced staff to develop proficiency
- Deputy to track progress of investigations

Measure success/failure:

- Complete non priority inspections within 120 days of assignment

Meeting goals:

- Decreased amount of time to complete investigations
- Assigned investigation to new biologist to develop proficiency
- All Worker Health and Safety illnesses completed within CDPR's requirements

III. ENFORCEMENT RESPONSE

The enforcement response program element was found to meet DPR standards and work plan goals.

- Compliance history for previous two years reviewed for any grower or business with one or more non-compliances on an inspection
- Enforcement Response Regulation is used to determine appropriate enforcement action
- Response based on the respondent's history and severity and type of violation. Greater emphasis put on Environmental and Worker, Health, and Safety violations.
- All inspections and investigations reviewed by the Pesticide Use Enforcement Deputy
- Copies of inspections kept in grower/business file. Compliance or Enforcement actions written or drafted by the Biologist/Inspector or the Deputy.
- Actions reviewed by PUE Deputy. Final draft versions of Notices of Proposed Action completed by PUE Deputy and submitted to Agricultural Commissioner for review.
- District Attorney consulted on the most serious non-compliances for consideration of formal prosecution

Strengths:

- Prior inspections kept in files allows for review of compliance history
- Violations identified on an inspection or violation notice form
- Referrals to the District Attorney for significant violations

Weaknesses:

- Period between violation and enforcement action is too long for investigations

Areas needing improvement:

- Reduction in time to execute enforcement action for investigations

Plan for improvement:

- Train support staff to enter use reports, notices of intent, and to maintain tickler file for registrations and notices of intent
- Fully staff and train front office
- Biologists to generate draft enforcement actions to reduce time between violation and enforcement action

Measure success/failure:

- Initiate enforcement actions within 90 days of incident

Meeting goals:

- Majority of enforcement actions initiated within 90 days of incident
- Referrals submitted to the District Attorney for violations that could not be accomplished through the civil penalty process.
- Implemented tickler file for use reporting and registration violations
- Support staff trained and current on data entry of use reports, notices of intent and registrations